

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Closed Captioning and Video )

Description of Video Programming )

MM Docket No. 95-176

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REPLY COMMENTS OF THE WEATHER CHANNEL

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## REPLY COMMENTS OF THE WEATHER CHANNEL

The Weather Channel respectfully files its reply comments in the above-captioned proceeding.<sup>1</sup>

## I. INTRODUCTION AND SUMMARY.

In its comments, The Weather Channel demonstrated that any new emergency captioning requirements should not be imposed on national programming services because emergencies generally are localized and thus do not have safety implications for the vast majority of viewers of national services. This is particularly true with regard to The Weather Channel for the following reasons:

- Unlike local broadcasters, The Weather Channel programs nationally and does not provide critical health and safety information;
- A broad new emergency captioning obligation would effectively force The Weather Channel to caption 24-hours-a-day because of the large number of weather emergencies that occur in the nation each year (for example, The Weather Channel issues more than 100,000 weather warnings annually). By contrast, emergency

<sup>1</sup> Closed Captioning and Video Description of Video Programming, MM Docket No. 95-176, Further Notice of Proposed Rule Making (rel. Jan. 14, 1998) ("FNPRM").

captioning would pose a smaller burden on local broadcasters since emergencies occur infrequently at the local level;

- Similarly, local broadcasters may reduce their captioning expenses by using slides, electronic newsroom (ENR) and other methods. The Weather Channel's programming is live and unscripted and can therefore be captioned only via expensive real-time methods; and
- The Weather Channel's computerized Weather Stars provide to affected localities in a text-only format all emergency watches, warnings, etc. issued by the National Weather Service immediately upon issuance. Thus, The Weather Channel already provides the hearing impaired with significant information about weather emergencies.

The Weather Channel provided the following options by which the Commission could adopt new emergency captioning rules consistent with the principles described above:

- 1) Exempt national services from any new obligation to caption their coverage of severe weather events, thereby permitting such services to caption emergency events pursuant to the Commission's pre-existing transition rules. Alternatively, exempt only those national services offering to broadcast all National Weather Service warnings, watches, etc., in a text-only format to affected localities.
- 2) Require only services whose primary audience is endangered by an emergency event to caption emergency information relating to the event.
- 3) Define "emergency information" as safety-related information having an immediate and direct relation to the preservation of life or property. Examples of such emergency information include the location of storm shelters and identification of roads having dangerous driving conditions.

The comments submitted on behalf of the hearing impaired community are not inconsistent with The Weather Channel's recommendations. Those comments are directed primarily at the need for captioning at the local level, thus implicitly

recognizing that emergency captioning makes little sense at the national level because emergencies predominantly are local events. Consequently, the record in this proceeding fully supports The Weather Channel's recommendations and The Weather Channel therefore respectfully urges the Commission to adopt those recommendations.

## **II. New Emergency Captioning Requirements Should Not Be Imposed On National Programming Services.**

Commenters endorsing the closed captioning of emergency information focused on the localized nature of emergencies and the need to caption local broadcast newscasts.<sup>2</sup> The Weather Channel -- like other national services -- differs significantly from local broadcasters for the following reasons: (1) local broadcasters -- not national services -- provide critical life-saving information to communities affected by emergency events;<sup>3</sup> (2) local broadcasters devote far more resources to any particular emergency weather event as compared to The Weather

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<sup>2</sup> For example, comments submitted by the National Ass'n. of the Deaf, SHHH, the Connecticut Commission on the Deaf, and Media Captioning Services were devoted largely to the need for the hearing impaired to obtain emergency captioning from their local broadcast stations. See Nat'l. Ass'n. for the Deaf Comments at 4; SHHH Comments at 2; Connecticut Commission on the Deaf Comments at 1; Media Captioning Services at 3-5.

<sup>3</sup> Weather Channel Comments at 6-9. See also DIRECTV Comments at 4 (national program distributors such as DIRECTV "do not carry programming that features local emergency information"); Media Captioning Services Comments at 3 (noting that captioning real-time emergencies requires "familiarity with local street names" and places which is gained by "providing closed captioning on a regular basis for a local station's programming") (emphasis added).

Channel and other national services;<sup>4</sup> (3) viewers expect to (and do) receive emergency information from their local broadcasters not from national services;<sup>5</sup> and (4) little public benefit would accrue by requiring national services to provide emergency captions because the vast majority of their audience is not threatened by any one emergency.<sup>6</sup>

Another distinguishing factor -- unique to The Weather Channel -- stems from the fact that emergencies occur infrequently at the local level, thereby permitting local broadcasters to "call in" captioning services on those rare occasions when an emergency is occurring.<sup>7</sup> In contrast, a weather emergency is often occurring somewhere in the United States. In a given year, for example, The Weather Channel issues over 100,000 weather warnings and watches. Because The Weather Channel spends a few minutes of its live coverage each hour on severe weather events, it has no ability to utilize "on-call"

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<sup>4</sup> Weather Channel Comments at 6-9. See also RTNDA Comments at 4 (noting that local news stations shift "into high gear" during emergency events).

<sup>5</sup> Weather Channel Comments at 6-9.

<sup>6</sup> As noted by The Weather Channel, a tornado in Akron, Ohio would have little effect on the vast majority of The Weather Channel's audience. See Weather Channel Comments at 8-9. See also RTNDA Comments at 5 ("costs of mandatory captioning of emergency information would be exponential, and the relative benefit to viewers with hearing disabilities minimal").

<sup>7</sup> Weather Channel Comments at 9-10. See also Caption Colorado Comments at 2-3 ("emergencies occur infrequently" thereby making it "feasible for video providers to have a captioning company 'on call'").

captioning because every day, it provides coverage of numerous severe weather events.<sup>8</sup> Moreover, since The Weather Channel's live coverage is unscripted, it would be required to use expensive real-time captioning techniques and could not take advantage of less costly alternatives.<sup>9</sup> No other service -- local or national -- would be so burdened.

No commenter contradicted The Weather Channel's position. Rather, as noted, commenters focused on the need for local broadcasters to close caption emergency information.<sup>10</sup> There was little discussion and even less support for imposition of emergency captioning requirements on national services such as The Weather Channel.<sup>11</sup> The lack of attention paid to emergency

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<sup>8</sup> All other national services, none of which are devoted to 24-hour weather coverage, encounter far fewer emergencies as compared to The Weather Channel.

<sup>9</sup> The Commission has recognized that electronic newsroom captioning ("ENR") and other less costly methods of captioning are available only where the programming is already scripted. See Closed Captioning and Video Description of Video Programming, Notice of Proposed Rule Making, 12 FCC Rcd 1044, ¶ 21 (1997). See also NAB Comments at 4 (ENR captions are taken from the TelePrompter script); ABC Comments at 6 (real-time captioning imposes substantial costs).

<sup>10</sup> National Ass'n of the Deaf Comments at 4 ("vast majority of local news stations will be able to bear the costs associated with providing emergency captions"); SHHH Comments at 2 ("broadcast licensees" should be required to caption swiftly emergency information); Connecticut Commission on the Deaf Comments at 1 (discussing captioning of information that affects the daily commute to work, medical appointments, the closing of schools and public agencies, etc.); Media Captioning Services at 3-5 (proposing various requirements for local stations to meet emergency captioning requirements).

<sup>11</sup> One commenter for the hearing impaired stated that its members "require captioning of regional and national news so

captioning by national services suggests that commenters agreed that such obligations would be of little public utility.

Furthermore, a decision not to apply any new captioning requirements to The Weather Channel would in no way endanger hearing impaired viewers. As discussed in detail in its comments, The Weather Channel's computerized Weather Stars automatically and immediately reproduce for affected communities all warnings and watches issued by the National Weather Service in a text-only format with no audio.<sup>12</sup> Consequently, hearing impaired viewers who are watching The Weather Channel already receive appropriate notice of any severe or dangerous weather event in their community. Thus, new emergency captioning obligations would be particularly unnecessary for The Weather Channel.

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they can be informed of current events in their communities" in order to "participate in the democratic [political] process." See Telecommunications for the Deaf Comments at 1. Such concerns are, of course, far outside the scope of this proceeding.

<sup>12</sup> Weather Channel Comments at 4-6. These text-only warnings should satisfy commenters for the hearing impaired and caption companies which requested that watches and warnings affecting viewer safety be included as emergency information. See SHHH Comments at 3; Caption Colorado Comments at 1.

**III. Emergency Information Should Be Defined To Include Only Safety-Related Information Having An Immediate And Direct Relation To The Preservation Of Life Or Property.**

Most commenters providing definitions of "emergency information" proposed definitions similar to The Weather Channel which defined "emergency information" as safety-related information having an immediate and direct relation to the preservation of life or property.<sup>13</sup> Placing immediacy and life-preservation elements in the definition of emergency information makes eminent sense because not all information about an emergency or conveyed during an emergency is emergency information.<sup>14</sup> As recognized by the Commission, material that does not give a viewer specific information necessary to the preservation of life or property is not safety-related and thus is not an emergency communication. Such non-safety related information would include mere references or generalized information about a tornado, interviews with victims, etc.<sup>15</sup> This kind of information is not immediately related to the preservation of life or property and therefore is not emergency information.<sup>16</sup> While such information may be of interest, the

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<sup>13</sup> Weather Channel Comments at 14-18.

<sup>14</sup> Id. at 15-16; ABC Comments at 4.

<sup>15</sup> Weather Channel Comments at 15; ABC Comments at 4.

<sup>16</sup> The Commission should reject Telecommunications for the Deaf's request (Comments at 1) that emergency information include information about "current events" in the community such as "proposed construction, changes in county master planning or zoning, tax increases, and regional politics." Such information does not present an immediate danger to life or property.



Commission has held that "[t]here are many worthwhile communications that will not qualify as emergency communications."<sup>17</sup> Moreover, such non-safety-related information ultimately will be captioned pursuant to the transition rules established in the Commission's Closed Captioning Order.<sup>18</sup>

In sum, the immediacy and life-preservation elements of emergency information guarantee that the hearing impaired are not bereft of essential life-saving information. At the same time, these elements also reduce the burden on programmers by requiring them to caption only information that is truly of an emergency/safety nature.

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<sup>17</sup> Amendment of Section 95.41(d) of the Commission's Rules, 22 FCC 2d. 635, 637 (1970). See also Amendment of Section 95.41(d) of the Commission's Rules, 22 FCC 2d. 635, 636-37 & attached Appendix to that Order (1970) ("an emergency communication must have some immediate and direct relation to the safety of life or protection of property" and "[i]f no immediate action is required, it is not an emergency.") (emphasis added).

<sup>18</sup> Were all information about or during an emergency required to be captioned, the benefits of the transition rules would be lessened due to increased emergency captioning costs.

#### IV. CONCLUSION.

For the reasons stated above, any new closed captioning rules for emergency events adopted by the Commission should not apply to national programming services, such as The Weather Channel. Rather, such service should be required to caption their coverage of emergencies pursuant to the Commission's captioning transition rules.

Respectfully submitted,

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March 27, 1998

# **CERTIFICATE OF SERVICE**

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